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AMEND Senate Bill No. 2737

House Bill No. 2054*

by adding the following as a new section of the printed bill:

SECTION _____. Tennessee Code Annotated, Section 36-1-102(36), is amended by adding the words "and responsibilities" after the words "recognized rights".

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION _____. Tennessee Code Annotated, Section 36-1-103, is amended by deleting the section in its entirety and by substituting instead the following:

(a) All proceedings for the adoption of children in the courts of this state, including any proceedings which terminated parental or guardianship rights, are hereby validated and confirmed and the orders and judgments entered therein prior to January 1, 1996, are declared to be binding upon all parties to the proceedings and such parties' privies and all other persons, until such orders or judgments shall be vacated as provided by law; provided, that this section does not apply to adoption proceedings or terminations of parental rights proceedings actually pending on January 1, 1996, in which the validity of a prior adoption or termination of parental rights proceeding is at issue.

(b) Adoptions and terminations of parental rights pending on January 1, 1996, and surrenders and consents executed prior to January 1, 1996, shall be governed by prior existing law.

(c) All adoptions of persons who are adults as of January 1, 1996, which were completed before January 1, 1996, in the courts of this state, pursuant to the then existing provisions of this part, are hereby in all things ratified and confirmed.

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(d) Notwithstanding any provisions of law to the contrary, surrenders taken and adoptions filed on or after January 1, 1996, and before October 1, 1996, which complied with the prior adoption law which was in effect on December 31, 1995, are in all things ratified and confirmed and shall be valid and lawful; provided, that this section does not apply to adoption proceedings or terminations of parental rights proceedings actually pending on January 1, 1996, in which the validity of a prior adoption or termination of parental rights proceeding is at issue. It is the intent of the legislature to prevent any declaration of invalidity of any surrenders or adoptions taken or filed on or after January 1, 1996, and before October 1, 1996, for failure to properly comply with the provisions of Public Chapter 532 (1995), which took effect on January 1, 1996, and which amended prior adoption law and procedures. This section is remedial legislation and shall have retrospective effect in order to promote the public welfare and to preserve the permanency of adoptive placements for children. This section shall become effective on January 1, 1996, the public welfare requiring it.

AND FURTHER AMEND by deleting the words and punctuation "biological parents of the child," in subdivision (10)(A) of Section 8 of the printed bill and by substituting instead the words and punctuation "biological parents or child of an adopted person or person for whom any adoption record, sealed record, sealed adoption record or post-adoption record is maintained,".

AND FURTHER AMEND by deleting the amendatory language of Section 12 of the printed bill in its entirety and by substituting instead the following:

() "Post-adoption record" means:

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(A) The record maintained in any medium by the department, separately from the sealed record or sealed adoption record and subsequent to the sealing of an adoption record or which is maintained about any sealed record or sealed adoption record. The post-adoption record contains information, including, but not limited to, adopted persons or the legal or biological relatives of adopted persons, or about persons for whom sealed records or sealed adoption records are maintained, or about persons who are seeking information about adopted persons, or persons on whom a sealed record or sealed adoption record is maintained, and the post-adoption record contains information concerning, but not limited to, the contact veto registry established by this part, the written inquiries from persons requesting access to records, the search efforts of the department pursuant to the requirements of the contact veto process, the response to those search efforts by those persons sought, information which has been requested to be transmitted from or on behalf of any person entitled to access to records pursuant to this part, any updated medical information gathered pursuant to this part, court orders related to the opening of any sealed adoption records or sealed records, and personal identifying information concerning any persons subject to the provisions of this part.

(B) The limited record maintained by the licensed or chartered child-placing agency or a licensed clinical social worker pursuant to § 36-1-126(b)(2), which indicates the child's date of birth, the date the agency received the child for placement, from whom the child was received and such person's last known address, with whom the child was placed and such person's or entity's last known address, and the court in which the

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adoption proceeding was filed and the date the adoption order was entered or the adoption petition dismissed.

(C) This record is confidential and shall be opened only as provided in this part.

AND FURTHER AMEND by deleting the directory language of Section 13 of the printed bill in its entirety and by substituting instead the following directory language:

Tennessee Code Annotated, Section 36-1-102(37), is amended by deleting the second sentence of subdivision (C) and by substituting instead the following language:
AND FURTHER AMEND by deleting subdivision (A) of Section 15 of the printed bill in its entirety and by substituting instead the following:

(A) Any records, reports or documents which are maintained at anytime by a court, a court clerk, a licensed or chartered child-placing agency, licensed clinical social worker, the department, the department of health, or any other information source concerning the foster care or agency care placement, or placement for adoption, of a person by any branch of the Tennessee Children's Home Society authorized by Public Chapter 117 (1919); or

AND FURTHER AMEND by deleting Section 18 of the printed bill in its entirety and by substituting instead the following:

SECTION 18. Tennessee Code Annotated, Section 36-1-108, is amended by deleting the words "this part" in subsection (b) and by substituting instead the words and figures "this section and § 36-1-109". Tennessee Code Annotated, Section 36-1-108, is

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further amended by deleting the Code reference "36-1-111(k)(3)(A)" in subsection (d)

and by substituting instead the Code reference "36-1-111(k)(4)(A)".

AND FURTHER AMEND by deleting the directory language of Section 19 of the printed bill in its entirety and by substituting instead the following directory language:

Tennessee Code Annotated, Section 36-1-109(a)(1)(B), is amended by deleting subdivision (B) in its entirety and by substituting instead the following new subdivision (B):

AND FURTHER AMEND Section 19 of the printed bill by adding the words "surrender or" after the words "court with jurisdiction for the" in subdivision (B)(i).

AND FURTHER AMEND Section 19 of the printed bill by adding the words "filed by the prospective adoptive parents" after the words "based upon a motion" and before the words "for that purpose" in subdivision (B)(i).

AND FURTHER AMEND by deleting Section 31 of the printed bill in its entirety and by substituting instead the following:

SECTION 31. Tennessee Code Annotated, Section 36-1-111(p)(2)(A), is amended by deleting subdivision (p)(2)(A) in its entirety and by substituting instead the following:

(A) The original of the surrender executed before the court shall be entered on a special docket for surrenders and shall be styled: "In Re: (Child's Name), and shall be permanently filed by the court in a separate file designated for that purpose maintained by the judge, or the judge's court officer, who

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accepted the surrender and shall be confidential and shall not be inspected by anyone without the written approval of the court where the file is maintained or by a court of competent jurisdiction with domestic relations jurisdiction if the file is maintained elsewhere. There will be no court costs or litigation tax assessed for the surrender. Within five (5) days, a certified copy of the surrender shall be sent by the clerk or the court to the adoptions unit in the state office of the department in Nashville.

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION_____. Tennessee Code Annotated, Section 36-1-111(p)(3)(A)(ii), is amended by deleting the subdivision in its entirety and by substituting instead the following:

(ii) A party who is petitioning for an adoption in cases where the child was not placed by the department or a licensed child-placing agency; provided, however, where the child was placed by the department or a licensed child-placing agency, the parties petitioning for an adoption or termination of parental rights are not entitled to copies of the surrenders made to the department or a licensed child-placing agency.

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION_____. Tennessee Code Annotated, Section 36-1-111(r)(2), is amended by deleting subdivision(r)(2) in its entirety and by substituting instead the following:

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(2)(A) Unless prior court orders or statutory authorization establish guardianship or custody in the person or entity to whom the surrender or parental consent is executed, the surrender, or parental consent alone does not vest the person(s) or entities who or which receive it with the legal authority to have custody or guardianship or to make decisions for the child without the entry of an order of guardianship or partial guardianship as provided in subdivision (6)(A) or as provided in §36-1-116(f). The court accepting the surrender or the parental consent shall not enter any orders relative to the guardianship or custody of a child for whom guardianship or custody is already established under prior court orders or statutory authorization, except upon motion under subdivision (4)(D) by the person(s) or entities to whom the surrender or parental consent is executed.

(B) In order to preserve confidentiality, the court clerk or the court shall have a separate Adoption Order of Guardianship Minute Book which shall be kept locked and available for public view only upon written approval of the court.

AND FURTHER AMEND by adding the following as a new section of the printed bill:

(a) SECTION _____. Tennessee Code Annotated, Section 36-1-111(k)(1), is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1)(A) Notwithstanding any other provisions of this part, in obtaining any medical or social background information, contact veto information, or other information required as part of the surrender or parental consent process

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pursuant to this part, the court, or at its direction, its court officers or its clerks, or other persons authorized to accept a surrender or parental consent pursuant to this part, may accept notarized statements attached to each of the forms promulgated by the department which verify that the informant of the required information has previously reviewed the form or, if unable to read, has had the contents of the form explained to the person, and that the person has accurately supplied the information on the form and the person's responses have not been subject to duress by any person.

(B)(i) The court, or other persons authorized by this part to accept surrenders shall personally, however, verify under oath by the surrendering or consenting person who has provided the information in a surrender or parental consent process pursuant to this part, that the parent or guardian agrees with the information provided in the forms required pursuant to this part, and the notarized statement shall have a section for the court, or other persons authorized by this part to accept surrenders, to ratify that this verification has occurred by providing a space for the signature of the judge or chancellor accepting the surrender or parental consent or other person authorized by this part to accept a surrender, and the date on which this was done.

(ii) The notarized statements must be attached to the surrender or parental consent and maintained with the surrender or parental consent form by

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the court or the court clerk or person authorized by this part to accept surrenders, and transmitted to the department as otherwise required by this part.

(C)(i) In all other respects, the court, or other persons authorized by this part to accept surrenders must witness the actual act of surrender, or must confirm the parental consent, by verifying directly with the parent or guardian his or her understanding and willingness to terminate parental rights and by witnessing the parent's or guardian's signature on the surrender form, or by questioning of the parent on the matters required by this part before the entry of an order of confirmation of the parental consent.

(ii) The court may not accept any surrenders executed prior to its approval of the surrender which relinquish the parent's or guardian's rights, nor may it enter any orders confirming a parental consent, based upon any written statement of the parent agreeing to relinquish the parent's rights to the child, except as may otherwise specifically provided by this part.

(iii) The execution of the surrender or parental consent shall occur in private in the chambers of the court or in another private area, and in the presence of the surrendering or consenting person's legal counsel if legal counsel has been requested by the surrendering or consenting person. In the discretion of the court or other person conducting the surrender or parental consent proceeding, the court's officer or other employee may be present.

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(D) For surrenders taken pursuant to §36-1-111(h), (i) or (j), the information required by this part to be supplied by the prospective adoptive parents, the department, or a licensed child-placing agency and the acceptance of a surrender by the prospective adoptive parents or the department or the licensed child-placing agency may be made by affidavit contained with the Tennessee surrender forms.

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION _____. Tennessee Code Annotated, Section 36-1-111, is further amended by deleting the language after subdivision (k)(2) beginning with "In all cases" and ending with "conducting the surrender proceeding:" and by substituting instead the following:

(2) In accordance with the provisions of subdivision (1), the following information shall be obtained under oath at time of the surrender in Tennessee, when using a Tennessee surrender form, or at the time of the confirmation of the parental consent:

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION _____. Tennessee Code Annotated, Section 36-1-111(s), is amended by deleting the word "subsection" and by substituting instead the word "section".

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION _____. Tennessee Code Annotated, Section 36-1-112(c)(1), is amended by deleting the period (.) at the end of the subdivision and by adding the following phrase

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at the end of the subdivision: “, and if the prospective adoptive parents are represented by counsel, a certified copy of the revocation shall be forwarded to such counsel.”.

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION_____. Tennessee Code Annotated, Section 36-1-116(b)(15), is amended by adding the following language as a new subdivision (D):

(D) If a child is in this country and the provisions of paragraph (A) cannot be met, the petitioners shall file an affidavit and any other available documentary evidence satisfactory to the court which shows why there is no approval available for the child from the foreign government or legal authority in the foreign country concerning the child’s placement with the petitioners.

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION_____. Tennessee Code Annotated, Section 36-1-117(i)(1), is amended by adding the words “if required and” after the words “guardian ad litem” in the second sentence of the subdivision.

AND FURTHER AMEND Section 21 of the printed bill by deleting the word “further amended” in the directory language of the third amendatory clause and by substituting instead the words “further amended”.

AND FURTHER AMEND by deleting subsection (a) of Section 63 of the printed bill in its entirety and by substituting instead the following:

(a) After: (1) the entry of the final order of adoption, or (2) after entry of the final order dismissing the adoption, or (3) after entry of an order revoking the surrender or parental

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consent, or (4) after entry of an order dismissing a termination of parental rights proceeding filed in conjunction with an adoption proceeding, or (5) upon conclusion of all termination of parental rights proceedings which were filed in conjunction with an adoption proceeding, all adoption records, court reports, home studies, preliminary home studies, other reports or other documents or papers or other information concerning the placement or attempted placement of a person for adoption or other information concerning the litigation of the adoption or attempted adoption of a person which are in the office of the judge or clerk of the court where the adoption was filed or where the surrender or confirmation of parental consent or revocation of a surrender or parental consent was taken, or any such records, reports, or documents in the offices of a licensed child-placing agency, a licensed clinical social worker, or in the county, regional, or state offices of the department of health, or in the county, district, and state offices of the department of human services, shall be placed and remain under seal, except as provided herein or in § 36-1-118(e)(4), or in title 68, and shall be confidential and shall be disclosed only as provided in this part.

AND FURTHER AMEND Section 64 of the printed bill by deleting the word “afte” in the first line of subdivision (1) and by substituting instead the word “after”.

AND FURTHER AMEND Section 80 of the printed bill by deleting the colon (:) after the language “which adoption was finalized by”, and by deleting the comma (,) and by substituting instead a semicolon (;) after the language “adoption proceeding prior to March 16, 1951” in subdivision (b)(1)(A)(i).

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AND FURTHER AMEND Section 80 of the printed bill by adding between the word “date” and the semicolon (;) at the end of subdivision (b)(1)(A)(i), the punctuation and language “; or where the record or other evidence demonstrates that a person was surrendered for adoption prior to March 16, 1951”.

AND FURTHER AMEND Section 80 of the printed bill by deleting the colon (:) after the language “cases of adoptions finalized by”, and by deleting the comma (,) and by substituting instead a semicolon (;) after the language “adoption prior to March 16, 1951” in subdivision (b)(1)(A)(ii).

AND FURTHER AMEND Section 80 of the printed bill by adding between the language “completion of the adoption” and the semicolon (;) at the end of subdivision (b)(1)(A)(ii), the punctuation and language “; or where the record or other evidence demonstrates that a person was surrendered for adoption prior to March 16, 1951”.

AND FURTHER AMEND Section 80 of the printed bill by deleting the words “the effective date of this Act” in subdivision (a)(2) and by substituting instead “August 24, 1995”.

AND FURTHER AMEND Section 80 of the printed bill by adding a comma (,) after the word and figures “June 12” in subdivision (a)(3).

AND FURTHER AMEND Section 80 of the printed bill by deleting the words and figures “Effective July 1, 1995” in subsection (b) and substituting instead the words and figures “Effective August 24, 1995”.

AND FURTHER AMEND Section 80 of the printed bill by adding in subdivision (b)(1)(B), after the language “subsection (a)(3)” and before the comma (,) the language “or which records were

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maintained by any child care or child-placing agency which had, either before or after March 16, 1951, subsequently assumed the care and supervision of a child who had previously been subject to the care and control of an agency described in subdivision (a)(3)".

AND FURTHER AMEND Section 80 of the printed bill by deleting the words "A person in" in subdivision (b)(1)(C)(i) and by substituting instead the words "An adopted person or a person subject to".

AND FURTHER AMEND Section 80 of the printed bill by deleting the words "A person described in" in subdivision (c)(1)(B)(i) and by substituting instead the words "An adopted person or a person subject to".

AND FURTHER AMEND Section 80 of the printed bill by deleting subdivision (c)(1)(C) in its entirety and by substituting instead the following language:

(C)(i) Information from any records of an adopted person, or any person otherwise subject to subdivision (A) for whom records are otherwise maintained, shall be released by the department or any other information source only to the parents, siblings, lineal descendants, or lineal ancestors, of the adopted person or of a person for whom records are maintained as described in subdivision (A), and only with the express written consent given to the department by the adopted person or of a person for whom records are maintained as described in subdivision (A), twenty-one (21) years of age or older, or such person's legal representative, and, notwithstanding any other of the following provisions of this part to the contrary, the adopted person or a person for whom records are maintained as described in subdivision (A) , his or her legal representative shall,

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under no circumstances, be required to take any affirmative action pursuant to the contact veto provisions of this act to protect the confidentiality of such identifying information; provided, however, nothing herein shall be construed to prevent access to identifying information in the records of the adopted person as otherwise permitted or required pursuant to §§ 36-1-125, 36-1-126, and 36-1-138.

(c)(ii). If an adopted person or a person for whom records are maintained as described in subdivision (A) is deceased or is disabled as defined for purposes of appointment of conservator under title 34 of the Tennessee Code Annotated, the lineal descendants of such person may petition the court pursuant § 36-1-138(c)(7), to be given access to the records of such person. A lineal descendent given access pursuant to this subdivision is subject to all the requirements of the contact veto process.

AND FURTHER AMEND by deleting the amendatory language of Section 83 of the printed bill and by substituting instead the following:

(2) If the department does not have a sealed record, sealed adoption record, or post-adoption record, and if the person seeking information concerning the history of an adopted person has a copy of the order of adoption from a Tennessee court, or in cases where the adoption was handled by any agency described in subdivision (a)(3), a copy of an order of adoption from any other court and/or any other proof of the person's care, supervision, or placement for adoption by any agency described in subdivision (a)(3), and any other proof of the adoption of a the person in Tennessee, any of which, in the discretion of the department is satisfactory to prove that the person is an eligible person, the department may issue a

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statement to that person permitting that person to obtain access to any records held by any other information source.

AND FURTHER AMEND by deleting Section 84 of the printed bill in its entirety and by substituting instead the following:

SECTION 84. Tennessee Code Annotated, Section 36-1-128(b), is amended by deleting subdivisions (1), (2) and (3) in their entireties and by substituting instead the following subdivision and by redesignating the subsequent subdivisions accordingly:

(1) A parent, sibling, spouse, lineal ancestor, or lineal descendant of an adopted person or a person for whom records are maintained as described in § 36-1-127(c)(1)(A), either before or after such persons reach the age of twenty-one (21).

AND FURTHER AMEND by adding the following new section of the printed bill:

SECTION _____. Tennessee Code Annotated, Section 36-1-128, is amended by deleting subdivisions (c)(1) and (c)(4) in their entireties and by substituting instead the following a new subdivisions (c)(1) and (c)(4), respectively:

(1) The name of each person who has duly filed a contact veto or who has given consent for further contact;

(4) Any persons whom the person who files a contact veto wishes to exclude from the application of the contact veto pursuant to § 36-1-130(a)(6)(A)(i);

AND FURTHER AMEND by adding the following as a new section of the printed bill:

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SECTION _____. Tennessee Code Annotated, Section 36-1-129, is amended by deleting the second and third sentences of subsection (b) and by substituting instead the following language:

A contact veto is not effectively filed or consent properly given unless the person surrendering or giving a parental consent completes such form at the time of the surrender or parental consent or properly files the form with the department at a later time; provided, however, that no fee for filing a contact veto or consent to contact shall be required if the veto or consent is completed at the time of the surrender or parental consent. If, for any reason, the person failed to complete a consent for contact or a veto at the time of the surrender or parental consent, the person may do so at later time after compliance with all provisions for filing, including the payment of all necessary fees.

AND FURTHER AMEND by deleting Section 97 of the printed bill in its entirety and by substituting instead the following:

SECTION 97. Tennessee Code Annotated, Section 36-1-129, is amended by deleting subsection (c) in its entirety and by redesignating the subsequent subsections accordingly and by deleting subsection (f) in its entirety and by substituting instead the following:

() The department shall report to the judiciary committee of the house of representatives and the judiciary committee of the senate of the one hundredth (100th) general assembly on or before January 15, 1998, concerning the use of

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the contact veto under this part, the frequency of violations of the contact veto,
and the number and nature of any complaints or objections to the contact veto
procedure received by the department since July 1, 1996.

AND FURTHER AMEND by deleting subsections (a) and (b) of Section 98 of the printed bill and
by substituting instead the following:

(a)(1) The department, or a licensed child-placing agency or the licensed clinical
social worker which has had a prior relationship with the persons stated above through
placement of a child or through a home study process and which maintain a limited
record or post-adoption record, shall, subject to the written consent of each party and
only in any situation where contact has been sought, transmit between an adopted
person twenty-one (21) years of age or older or a person for whom records are
maintained as described in §36-1-127(c)(1)(A), or such person's legal representative,
and such person's parent, sibling, lineal ancestor, or lineal descendant any written,
photographic, video, or audio communication which such entity may have, and which is
not contained in the records of the department, the licensed child-placing agency or the
licensed clinical social worker, even if no direct contact is permitted or desired.

(a)(1) If an adopted person or a person for whom records are maintained as
described in §36-1-127(c)(1)(A) is deceased, or is disabled as defined for purposes of
appointment of conservator under title 34 of the Tennessee Code Annotated, the lineal
descendants of such person may petition the court pursuant §36-1-138(c)(7), to be given
access to the records of such person, and to transmit or receive the information

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permitted by this section. A lineal descendent given access to records under this subdivision is subject to the requirements of contact veto process.

(b) The adopted person or other persons for whom records are maintained as described in §36-1-127(c)(1)(A), or such person's legal representative, or a person eligible to file a contact veto may, in writing from time-to-time to the department, a licensed child-placing agency, or the licensed clinical social worker, update such person's personal information, addresses, and telephone numbers in order to allow periodic contact by the department for subsequent search requests, or for other contact by the department or the licensed child-placing agency or the licensed clinical social worker.

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION _____. Tennessee Code Annotated, Section 36-1-130, is amended by deleting subdivision (a)(6)(A) in its entirety and by substituting instead the following:

(A)(i) If a person files a contact veto in conformity with this part, the contact veto shall, in addition, automatically protect and apply to the person's spouse, siblings or future siblings, lineal descendants and lineal ancestors and any spouses of those other persons, but may exclude from such protection and application, by specific reference, any such relatives or spouses where permission is given to the department in writing by the person filing the contact veto. If, because contact vetoes or consents are filed on the same date, the

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department is unable to determine which was filed first, the contact veto shall be deemed to be the first filed.

(ii) The person filing the automatic veto or giving consent to contact may vary or withdraw the automatic veto or consent which has been given upon satisfactory proof of identity and by making such request in writing to the department.

(iii) If a request is made by an adopted person or person for whom records are maintained as described in §36-1-127(c)(1)(A), or such person's legal representative, to have contact with a person to whom the automatic veto under subdivision (a)(6)(A)(i) applies or to have contact with a person who is otherwise eligible to file a contact veto, the department shall attempt to contact those persons for whom a contact request is made who are listed on the registry or, if not listed on the registry, shall attempt contact pursuant to the search requirements of §36-1-131.

(iv) If a request is made under this part to have contact with an adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A) by a parent, sibling, lineal descendant, lineal ancestor of such person, or the legal representative of the requesting party, the department shall make a diligent effort to contact the adopted person or the person for whom records are maintained as

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described in §36-1-127(c)(1)(A), or such person's legal representatives, based upon information contained in any records which it maintains pursuant to this part or based upon other information which it is given by the parent, sibling, lineal descendant, lineal ancestor, or the legal representative of such persons.

(v) In the circumstances described in subdivision (a)(6)(A)(iii) or subdivision (a)(6)(A)(iv), the department shall determine if any of these persons wish to consent to contact with the requesting party or whether they wish to confirm, alter, vary or withdraw a contact veto, or in the case of an adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A), whether they wish to release any identifying information.

(vi) If the adopted person or person for whom records are maintained as described in §36-1-127(c)(1)(A), is twenty-one (21) years of age or older, or such person's legal representative, wishes to permit contact or wish to release identifying information such person may give written direction to the department relative to the desire for contact or the extent of identifying information such person wishes to release; provided, however, notwithstanding any other provisions of this part to the contrary, they shall not be under any affirmative duty to use any of the procedures for filing any contact veto pursuant to this part to prevent contact or to

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prevent the release of any identifying information from any record subject to this part, and no identifying information from any record shall be made available to any other persons without the written consent to the department by an adopted person or person for whom records are maintained as described in §36-1-127(c)(1)(A), or such person's legal representative; provided, however, nothing herein shall be construed to prevent access to identifying information in the records of the adopted person as otherwise permitted or required pursuant to §§36-1-125, 36-1-126 and 36-1-138. If written direction is given by an adopted person or person for whom records are maintained as described in §36-1-127(c)(1)(A), or such person's legal representative, to permit contact or the release of certain identifying information, the department shall require the requesting party to sign a sworn statement similar to that required under §36-1-127(f), acknowledging the restrictions on contact or use of any identifying information permitted or allowed under this subdivision.

(vii) The spouse of the person filing an automatic veto and the siblings, lineal descendants and lineal ancestors and any spouses of those persons, or the legal representatives of any persons eligible to file a contact veto may also give written consent to the department for release from the automatic veto which may have been filed prior to such person's filing with the contact veto registry, and the person, or the person's legal

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representative, may alter or vary the automatic veto as it applies specifically to that person, and, if contacted by the department pursuant to this part in response to a search request, may agree to contact.

AND FURTHER AMEND by adding the following as new section of the printed bill:

SECTION ____ Tennessee Code Annotated, Section 36-1-130, is further amended by deleting the language “(a)(6)(A)” in subdivisions (a)(6)(B) and (a)(6)(c) and by substituting instead the language “(a)(6)(A)(i)”.

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION ____ Tennessee Code Annotated, Section 36-1-130(b), is amended by deleting subdivisions (b)(2) and (b)(3) and subsections (c) and (d) and by substituting instead the following:

(b)(2) If a contact veto which has been filed with the department remains intact or is filed as a result of a search pursuant to §36-1-131, or if a consent to contact is altered to withdraw the ability to have contact, the department shall notify the requesting party of this fact and the requesting party shall not be permitted contact with the person sought.

(3) If the contact veto remains intact, or if the adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A), or such person’s legal representative, refuses contact or refuses to release identifying information, the person making the request for contact or information may place his or her name, address, and telephone number in the registry to request

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notification from the department should the contact veto be varied, altered or withdrawn or permission for release of identifying information be given, or such requesting person may, in writing, permit the department to release his or her name, address, and telephone number to the person who had entered the contact veto or who had denied contact or who had denied the release of identifying information, and that person may contact the requesting person at his or her discretion without further involvement of the department.

(c) If consent for contact is shown from the registry records or is given by the person with whom contact is sought either by withdrawing or varying the veto, or if the adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A), or such person's legal representative, gives permission for contact or for release of identifying information, the department shall, in conformity with the consent or the varied, or altered veto, notify the person making the original request of this fact and shall provide such information as may be available to establish contact or shall provide such identifying information as may be released from any record in conformity with this part by the adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A), or such person's legal representative.

(d) If the persons or classes of persons who are the subject of the search were not located on the registry or could not be notified at the address designated in the registry, the department shall follow the procedures under §36-1-131.

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AND FURTHER AMEND by deleting Section 88 of the printed bill in its entirety and by substituting instead the following:

SECTION 88. Tennessee Code Annotated, Section 36-1-131, is amended by deleting the section in its entirety and by substituting instead the following:

(a) If after a search has been made of the registry and either no person with whom contact was requested was located on the registry or the person named on the registry could not be notified at the address designated in the registry, the department shall search the sealed adoption record, sealed record or the post adoption records in its possession for information concerning the location of the person who is the subject of the search and shall conduct a diligent search for such person.

(b)(1) Upon locating such person whose relationship to the requesting party is confirmed by the person sought or whose relationship to the requesting party is or has been confirmed by other evidence satisfactory to the department, the department shall notify such person of the inquiry and of the department's determination of relationship to the requesting party.

(2)(A) Such person whose relationship to the requesting party is confirmed as provided in subdivision (1), or that person's legal representative, may file a written consent with the registry.

(B) If the person wishes to veto contact, the person must, unless such person is an adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A) or a person for whom an automatic veto applies pursuant to §36-1-

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130(a)(6)(A)(i), file a contact veto pursuant to §§36-1-128 and 36-1-129 and must pay any necessary fees, within ninety (90) days of the date the department gives oral or written notice of that time period for filing a contact veto. If the contact veto is timely and effectively filed pursuant to this part, then the department shall notify the requesting party in writing and no contact shall be permitted with that person with whom contact was sought. If the contact veto is not timely and effectively filed, the department shall notify the person requesting the search and that person shall be permitted to attempt contact with the person(s) who was sought unless such person is an adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A) or unless such person is a person for whom an automatic veto applies pursuant to §36-1-130(a)(6)(A)(i). Written notice shall be effective upon the date the notice is sent.

(c) If the person who is the subject of the search whose relationship to the requesting party has been confirmed by evidence satisfactory to the department cannot be located after diligent search, including the sending of notice to the last known mailing address of such person, and, unless such person is an adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A) or unless such person is a person for whom an automatic veto applies pursuant to §36-1-130(a)(6)(A)(i), the department shall inform the person requesting the search of this fact in writing and that person shall be under no further restrictions pursuant to §36-1-130 against contact with the person who has been sought.

AND FURTHER AMEND by adding the following as a new section of the printed bill:

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SECTION _____. Tennessee Code Annotated, Section 36-1-132, is amended by deleting the section in its entirety and by substituting instead the following:

(a) Any person who has filed a contact veto pursuant to this part or the adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A), or such person's legal representative, shall have a cause of action in the circuit or chancery court for injunctive relief and for compensatory and punitive damages against any person or entity who or which has violated the provisions of the contact veto or for violation of any restrictions on contact with the adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A).

(b) Venue for such action shall be in the county of the residence of the plaintiff, or, if the plaintiff resides out of state, in the county where the adoption petition was originally filed, or if no petition was filed, or if its venue is unknown, in the chancery or circuit court of any county with a population of one hundred thousand (100,000) or greater as established by the federal census of 1990 or any subsequent census.

(c) A certified copy of the sworn statement which was signed pursuant to §36-1-127(f) or §36-1-130(a)(6)(A)(vi), by the person against whom the action is brought for violation of the contact veto shall be admissible in the action under this section as conclusive evidence of that person's knowledge of the restrictions imposed by a contact veto or the restrictions imposed by §36-1-130.

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(d) Any person who has filed a contact veto or an adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A), or such person's legal representative, who has prevailed in an action under subsection (a) shall be entitled to recover attorneys fees and all costs of the proceeding from the opposing party or parties.

(e) Any action under this section shall be brought within three (3) years of any contact or attempted contact or violation of other restrictions on contact in violation of this part.

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION_____. Tennessee Code Annotated, Section 36-1-133(b), is amended by adding the words "or legal" after the word "biological" in subdivisions (3), (4), and (5).

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION_____. Tennessee Code Annotated, Section 36-1-135, is amended by deleting subsection (a) in its entirety and by substituting instead the following new subsection (a), and by adding the following new subsection (d):

(a) The department shall update its post adoption records with any medical, psychological, or psychiatric information provided by an adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A) eighteen (18) years of age or older, or such person's legal representative, or by such person's adoptive or legal parent if the adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A) is under

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eighteen (18) years of age, or which information is provided by any biological or legal relative of an adopted person or a person for whom records are maintained as described in §36-1-127(c)(1)(A), or such person's legal representative, which information concerns any of those persons; provided, however, that such information shall be provided in the form of a letter or other written evidence from a licensed health care professional or from a licensed health care facility which explains the health care status of persons who may be affected and why the transmission of such information to other persons is necessary.

(d) Any notification required to be made by the department as part of a search and information request or transmittal pursuant to this section with an adopted person or with a person for whom records are maintained as described under §36-1-127(c)(1)(A) who is under eighteen (18) years of age shall be made with such person's adoptive or legal parent, or with the legal representative of the adopted person or person for whom records are maintained as described under §36-1-127(c)(1)(A), or with the parents or with the legal representative of the minor biological or legal relative of the adopted person or person for whom records are maintained as described under §36-1-127(c)(1)(A), and such parents or legal representatives shall make any decisions relative to release of information or provision of information pursuant to this section.

AND FURTHER AMEND by adding the following as a new section of the printed bill:

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SECTION _____. Tennessee Code Annotated, Section 36-1-136, is amended by deleting the section in its entirety and by substituting instead the following:

(a)(1) Any notification required to be made as part of a search or a contact or an identifying request pursuant to this part for an adopted person or a person for whom records are maintained as described under §36-1-127(c)(1)(A), shall be made with such persons who are twenty-one (21) years of age or older, except as otherwise provided by §36-1-135, or with the legal representative of such persons;

(2) Any notification for search or contact requests involving the biological or legal relative, who is under twenty-one (21) years of age, of the adopted person or person for whom records are maintained as described under § 36-1-127(c)(1)(A), shall be with the parents or legal representative of such biological or legal relative; and

(3) Any notification involving any other persons who are subject to contact for search requests or contact requests under this part shall be made with those persons who are twenty-one (21) years of age or older or with the known legal representative of any such persons.

(b) Any decision to permit contact or to permit the disclosure of information authorized by this part to be disclosed under subsection (a) shall be made, as the case may be:

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(1) By the adopted person or a person for whom records are maintained as described under § 36-1-127(c)(1)(A) in subdivision (a)(1) twenty-one (21) years of age or older, or their legal representative, except as otherwise provided by § 36-1-135; or

(2) By the parents or by the legal representative of the biological or legal relative in subdivision (a)(2), who is under twenty-one (21) years of age, of the adopted person or person for whom records are maintained as described under § 36-1-127(c)(1)(A).

(3) By those other persons in subdivision (a)(3) who are twenty-one (21) years of age or older or by the known legal representative of any such persons; or

AND FURTHER AMEND by deleting Section 91 of the printed bill in its entirety and by substituting instead the following:

SECTION 91. Tennessee Code Annotated, Section 36-1-137, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) If, after reviewing the sealed adoption records, the sealed records or the post adoption records, and any other credible evidence, and after conducting a diligent search and making any other reasonable inquiries as to the adoptive status of a requesting party or the relationship of the biological or legal relatives to the adopted person or any person for whom records are maintained as described in §36-1-127(c)(1)(A), or of the adopted person or any person for

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whom records are maintained as described in §36-1-127(c)(1)(A), to a biological or legal relative, as the case may be, the department is unable to verify the requesting party's adoptive status or the legal, biological, or sibling relationships of the persons seeking to establish contact to the persons sought or the status of any legal representatives, the department shall notify the requesting party of this fact and the basis for the inability to verify the relationship, but shall not provide access to any record to the requesting party, or otherwise authorize contact with the person sought or transmit information between any parties.

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION _____. Tennessee Code Annotated, Section 36-1-138(c), is amended by adding the following as new subdivision (7):

(7) The movant is a lineal descendant of a deceased adopted person or person or a person for whom records are maintained as described in § 36-1-127(c)(1)(A) or is the lineal descendant of such a person who is disabled as defined for purposes of appointment of conservator under title 34 of Tennessee Code Annotated. The effect of any order permitting the lineal descendant who is permitted to have access pursuant to this subdivision, shall be to make the lineal descendant subject to the provisions of the contact veto process.

AND FURTHER AMEND by adding the following as a new section:

SECTION _____. Tennessee Code Annotated, Section 36-1-138, is amended by deleting subdivision (g) and by substituting instead the following new subsection (g):

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(g)(1) No contact by a party receiving information pursuant to this section who is eligible to request a search under this part for any other person who is or may be protected by a contact veto of any kind or who is an adopted person or a person for whom records are maintained as described under §36-1-127(c)(1)(A), shall be permitted unless the provisions of §§36-1-130 and 36-1-131 have been completed and contact is permissible pursuant to those sections.

(2) The department's response to the court shall inform the court if any person is subject to the protection of a contact veto or if any person is an adopted person or a person for whom records are maintained as described under §36-1-127(c)(1)(A).

AND FURTHER AMEND by adding the following as a new section of the printed bill:

SECTION _____. Tennessee Code Annotated, Section 37-2-403(a)(2), is amended by designating the first through the sixth sentences as subdivision (a)(2)(A), by designating the following as subdivision (a)(2)(B), and by redesignating the seventh sentence as subdivision (a)(2)(C):

(B)(i) The parents or legal guardians of the child shall receive notice to appear at the court review of the foster care plan or the plan of care and the court shall explain on the record the law relating to abandonment contained in §36-1-102, and shall explain that the consequences of failure to visit or support the child will be termination of the parents' or guardians' rights to the child, and the court will further explain that the parents or guardian may seek an attorney to

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represent the parents or guardians in any termination proceeding. If the parents or legal guardians are not at the hearing to review the foster care plan or plan of care, the court shall explain to the parents or guardians at any subsequent hearing regarding the child held thereafter, that the consequences of failure to visit or support the child will be termination of the parents' or guardians' rights to the child and that they may seek an attorney to represent the parents or guardians in a termination proceeding.

(ii) If the parents or guardian of the child cannot be given notice to appear at the court review of the foster care plan or plan of care, or if they refuse or fail to appear at the court review of the foster care plan or plan of care or cannot be found to provide notice for the court review of the foster care plan or plan of care, any agency which holds custody of the child in foster care or other in any other type of care and which seeks to terminate parental or guardian rights based upon abandonment of that child under §36-1-102, shall not be precluded from proceeding with the termination based upon the grounds of abandonment, if the agency demonstrates at the time of the termination proceeding:

(a) That the court record shows, or the petitioning party presents to the court a copy of the foster care plan or plan of care that shows, that the defendant parent or guardian, subsequent to the court review in subdivision (2)(B)(i), has signed the portion of the foster care plan or plan of care which describes the criteria for establishing abandonment under

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§36-1-102, or that the court record shows that, at a subsequent hearing regarding the child, the court made the statements to the parents or guardians required by subdivision (2)(B)(i).

(b) By an affidavit, that the child's foster care plan or plan of care containing language which describes the criteria for establishing abandonment under §36-1-102 was presented by the agency party to the parent or guardian at anytime prior to filing the termination petition, or that there was an attempt at anytime to present the plan which describes the criteria for establishing abandonment under §36-1-102 to the parent or guardian at anytime by the agency party, and that such attempt was refused by the parents or guardians.

(c) That, if the court record does not contain a signed copy of the foster care plan or plan of care, or if the petitioning agency cannot present evidence of a foster care plan or plan of care showing evidence of such notice having been given or an affidavit showing that the plan was given or that the plan was attempted to be given to the parent or guardian by the agency and was refused by the parents or guardians, and, in this circumstance, if there is other no court record of the explanation by the court of the consequences of abandonment and the right to seek an attorney at anytime, then the petitioning agency shall file with the court an affidavit in the termination proceeding which describes in detail the party's

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diligent efforts to bring such notice required by subdivision (2)(B)(i) to such parent or guardian at anytime prior to filing the agency's filing of the termination petition.

AND FURTHER AMEND by adding following as a new section of the printed bill:

SECTION _____. Tennessee Code Annotated, Section 36-1-141, is amended by adding the following new subsections to be appropriately designated:

() (1) Notwithstanding the provisions of §§4-5-201 et seq. to the contrary, all forms promulgated by the department of human services as public necessity rules which became effective on January 2, 1996, to implement the provisions of Public Chapter 532 (1995) shall remain in effect until June 30, 1997, or until such earlier date as new permanent rules may be promulgated and become effective in order to permit the department or its successor state agency providing adoption services under this part pursuant to any executive order or pursuant to any other legislation, to timely review the adequacy of any forms promulgated by those public necessity rules and to permit an orderly and cost effective implementation of any changes made by this act or by any other act affecting the adoption laws of this state.

(2) Unless otherwise specifically directed by the general assembly, no provision of this act or any other law which may necessitate the modification of any of the mandatory forms which may be required by this part or any other title of Tennessee Code Annotated at any time shall require the modification of any existing form or use of any new form until the department or its successor agency providing adoption services

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under this part pursuant to any executive order or pursuant to any other legislation promulgates such form as a permanent rule and such rule is effective, or unless it is determined by the department or its successor agency providing adoption services under this part pursuant to any executive order or pursuant to any other legislation that such change must be made under any requirements of §4-5-209(a).

(3) No surrender, revocation, adoption or any other activity requiring the use of any form promulgated pursuant to this part shall be defective, void or invalid because it is undertaken using any form which is in effect as a promulgated and effective rule of the department or its successor agency providing adoption services under this part pursuant to any executive order or pursuant to any other legislation on the date of such action, whether or not any new or amended provision of this act or any law has been enacted prior to the date of such action, until such form has been promulgated and is effective as a permanent rule, or as otherwise required by § 4-5-209(a). It is the intent of the general assembly to preclude in any manner questions concerning the validity of any adoption or related proceeding or procedure due to the failure or inability of the department or its successor agency providing adoption services under this part pursuant to any executive order or pursuant to any other legislation to make timely changes to such mandatory forms.

() Notwithstanding the provisions of §§4-5-201 et seq. or any other provision of this act to the contrary, any forms promulgated by the department of human services, or its successor state agency providing adoption services under this part pursuant to any

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executive order or pursuant to any other legislation, which forms are related to any provisions of this part for the implementation of the contact veto or consent to contact or release of identifying information process involving the access to records pursuant to this part, shall be effective as public necessity rules, following approval of such public necessity rules by the attorney general and reporter, upon the date of the filing of such rules with the secretary of state; provided, however, that the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 2, relative to the promulgation of such rules as permanent rules must be followed.

AND FURTHER AMEND by deleting Section 104 of the printed bill in its entirety and by substituting instead the following:

SECTION 104. Tennessee Code Annotated, Section 36-1-127(c), is amended by adding the following new subdivisions as subdivisions (2) through (4):

(2) Notwithstanding any other law to the contrary, Tennessee Code Annotated, Sections 36-1-139 and 36-1-141 as such sections existed immediately prior to January 1, 1996, shall be revived and shall continue in full force and effect from the date this act becomes law, and shall expire on July 1, 1996, to provide a method for contact with siblings and biological parents as provided therein until the effective date of the contact veto process.

(3) On July 1, 1996, the contact veto registry process and records access procedure established pursuant to subdivision (c)(1) of this section and subsections (d)-(h) of this section and other sections of this part shall become

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effective for access to records and contact by eligible persons under this part as set forth in subdivision (c)(1) and any other provisions of this part.

(4) Effective January 1, 1996, the basis for judicially ordered opening of all records pursuant to this part shall be the provisions set forth in §36-1-138 and any other relevant provisions of this part.